



## UNITED STATES DEPARTMENT OF COMMERCE

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PCT

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/292,186 04/15/99 KINZER

D IR-1609-(2-1)

002352 MMC1/1103  
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NEW YORK NY 10036-8403

EXAMINER

H.U.S

ART UNIT	PAPER NUMBER
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2811

DATE MAILED:

11/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. 09/292,186	Applicant(s) <b>Kinzer</b>
	Examiner Shouxiang Hu	Group Art Unit <b>2811</b>

Responsive to communication(s) filed on Aug 15, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claim

Claim(s) 1-13 and 16-22 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-13 and 16-22 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

**-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --**

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**DETAILED ACTION**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13 and 20-22 drawn to a semiconductor device, classified in class 257, subclass 329.
  - II. Claims 16-19 drawn to a method of making a semiconductor device, classified in class 438, subclass 212.
2. The inventions are distinct, each from the other because of the following reasons:  
Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, product as claimed can be made by a materially different process such as forming the epitaxial layer after forming the polysilicon gate layer, instead of forming the gate layer in the epitaxial layer.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, the search required for Group I is not required for Group II, and separated examination would be required, restriction for examination purposes as indicated is proper.

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4. Applicant is advised that the response to this requirement, to be complete, must include an election of the invention to be examined even though the requirement may be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shouxiang Hu whose telephone number is (703) 306-5729.

*SH*

October 27, 2000

*Minh Loan Tran*  
Minh Loan Tran  
Primary Examiner